

West Dunbartonshire Licensing Board

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Dear Sir

**CHEERS LICENSED GROCERS
2 DALGLIESH AVENUE, DUNTOCHER, G81 6DU
PREMISES LICENCE HOLDER: ANIL KUMAR RANDEV**

Thank you for your email of 21 June 2011 and your client's letter of 21 June 2011 requesting a Statement of Reasons in relation to the decision of West Dunbartonshire Licensing Board of 14 June 2011 to suspend the Premises Licences for Cheers Licensed Grocers. This Statement of Reasons gives details of the procedure adopted by the Board, summarises the evidence and submissions before the Board, details the Board's decision and provides reasons for it.

On 11 May 2011 the Chief Constable of Strathclyde Police made application in terms of Section 36(1) of the Licensing (Scotland) Act 2005 for a Review of the Premises Licence of Cheers Licensed Grocers. The application was made in terms of Section 36(3)(b) of the Act on grounds relevant to one or more of the Licensing Objectives articulated at Section 4(1) of the 2005 Act, namely there had been conduct on the part of the licence holder which had resulted in crime and disorder, contrary to the Licensing Objective of preventing crime and disorder. A Premises Licence Review Hearing was held in the Council Offices, Garshake Road, Dumbarton at 10 a.m. on 14 June 2011. Board members present were Councillors Jim Brown (Chair), George Black, Geoff Calvert, Gail Casey, Jim Finn, Jonathan McColl and Ronnie McColl. The Licence Holder Anil Kumar Randev was in attendance, represented by James Arrol, Aamer Anwar Solicitors.

The procedure, evidence and submissions before the Board were as follows. Firstly Andrew Fraser, Clerk to the Board detailed the procedure to be adopted by the Board. In answer to questions from the Chair Mr Arrol confirmed that his client had received the letter from Strathclyde Police dated 11 May 2011 and had also received the report from the Licensing Standards Officer dated 25 May 2011. He further confirmed that there were no preliminary issues.

Sgt George Stewart of Strathclyde Police advised that Mr Randev had appeared at a pleading diet on 20 June 2011 and had pled guilty to the charge detailed in the police letter of 11 May 2011. Sentence had been deferred to June 2012. Sgt Stewart then read/...

read the terms of the police letter of 11 May 2011, which letter is referred to for its terms. Mr Arrol advised the Board that when Mr Randev had pled guilty the narration of facts to the court had been agreed with the Crown. The agreed narration had been that “on 1 March you did assault a person unknown, did repeatedly punch, kick and strike her on the head and body”. It had been accepted by the Crown that he did not push the person unknown to the ground. The Clerk advised the Board that it was appropriate to hear the background from the police, but the Board should bear in mind that Mr Randev had only pled guilty to the facts narrated by Mr Arrol.

Sgt Stewart advised the Board that the background facts were as follows. Following an exchange of profanities between Mr Randev and the unknown female in the premises, he had instructed her to leave. She had removed sandwiches and pasta without paying, left the shop and turned into Dalgleish Avenue carrying the items. Mr Randev then pursued her, shouted and swore and pushed her to the ground (noting that he had not pled guilty to the pushing to the ground). He began to kick her on the legs and body and punch her in the face with the sandwiches and the pasta. Witnesses saw him kicking her on the legs and body and punching about the face, describing the force used as “like trying to kick a ball as far as he could”. He had thrown the sandwiches into her face. A witness went into the street and a second witness observed from Sheltered Housing. The witnesses saw Mr Randev strike the female from behind and punch her in the face, the female throwing her arms about in defence. By the time the first witness got to the female Mr Randev was on top of the female punching her. The witness dragged him from her and the witness remonstrated with Mr Randev. Mr Randev protested his innocence and returned to the shop with the witness and the female. The female pulled over a cake stand. The witness advised that Mr Randev seemed more intent on confrontation so the witness contacted the police. Mr Randev went to the witness’s house and was described as ranting and raving saying he acted out of provocation and that she got what she deserved. The witness asked him to leave. Mr Randev also contacted the police. The police were unable to attend for a further one hour and 15 minutes but while attending noticed that his upper clothing was covered in mud round the sleeves. He advised the police of the theft, that he had pursued and dealt with the incident himself. Mr Randev was not forthcoming with CCTV evidence, albeit there was a time delay in the police enquiries. Attempts to trace the female were unsuccessful and she has not been identified to date. In April Mr Randev was cautioned and charged.

Councillor Jonathan McColl advised that having heard the background circumstances he may know the witness. He declared a non-financial interest and left the room. Councillor Jim Finn advised that he may also know the witness as well as shopping in the premises. He also declared a non-financial interest and left the room.

The Licence Holder was given the opportunity to question the police but had no questions. In response to questions from Board Members, Sgt Stewart confirmed that Mr Randev had contacted Strathclyde Police a considerable time after the incident to note that police had still not reviewed the CCTV evidence, which would have provided evidence to back him up. At that point the CCTV evidence was not available as it had been scrubbed.

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The Board then heard from Lawrence Knighton, Licensing Standards Officer. He spoke to the terms of his report dated 25 May 2011, which report is referred to for its terms. He advised that Mr Randev as Licence Holder and his wife as Designated Premises Manager had advised that they are the only persons working in the premises. This report detailed a number of issues of non-compliance evident when the premises received its first full compliance visit on 24 May 2011 relating to public display of the premises licence, the lack of a refusals book between December 2010 and March 2011, no evidence of a training scheme being implemented to keep licensing knowledge current and CCTV images only retained for 11 day retention period. Premises Licence Holder was given the opportunity to ask questions of Mr Knighton but did not do so. In response to questions from Board members Mr Knighton confirmed that the level of non compliance was not particularly unusual for a small off-sales premises and the premises had got everything sorted out since the inspection.

Mr Arrol then addressed the Board. He advised that the facts to be narrated by him were accepted by the Procurator Fiscal when Mr Randev had pled guilty last week. A female had asked to use the shop phone; Mr Randev advised her it only accepted incoming calls. She vented her anger at Mr Randev including a certain amount of racial abuse, albeit Mr Randev didn't report this. When leaving she picked up pasta and sandwiches and said "can't stop me doing this". When Mr Randev caught up with the female she turned round. There was some sort of altercation and she fell to the ground. He accepts that when this occurred he kicked her twice to the body and punched her once to the face. He doesn't recollect being pulled off but this may have happened. He returned, the girl returned to the shop and pulled over a cake display cabinet and gave him further abuse.

The background was that Mr Randev works long hours. A member of staff had failed to turn up on the weekend and he and his wife worked 50 hours between Friday and Monday. On the Tuesday of the offence he had been working from 7.30 a.m., was very tired and had taken caffeine tablets which had clouded his judgement. He accepts what he did was wrong. He has no previous convictions before this. He has ran shops for 25 years in Pollock and Easterhouse and was a Postmaster and previously worked in licensed premises. This was the perfect storm when he had worked all weekend, been given abuse, was provoked and snapped. When he appeared in court on 10 June, sentence was deferred for 12 months for good behaviour and it would be expected that if he is of good behaviour he would usually be admonished. The shop operates an over 25 scheme, only sells to persons aged over 21 and the CCTV now keeps recordings for 31 days. When the premises were flooded in December, a number of items were destroyed and he had forgotten to reinstate the training book.

In answer to questions from Board members, Mr Randev confirmed that when the police initially attended he was unable to provide the CCTV as his wife, who is the only one who knew the password, was not present in the shop. He had expected the police to return to get the CCTV evidence. Mr Randev also confirmed that while he had advised the Licensing Standards Officer that no other persons worked in the premises the other person mentioned in the charge was a shelf stacker.

The Board proceeded to debate whether the ground for review was established and if so, the steps which the Board should take. Councillor Calvert moved to find the ground/...

ground of review established , and to suspend the licence for 12 months. The Clerk advised the Board that the Board needed to vote on the suspension, thereafter allow Mr Randev an opportunity to address the Board on the period of suspension, then there could be further motions on the period. It was however appropriate for Board members to indicate that certain lengths of suspension were in consideration, to help inform the Licence Holder in their submission. Councillor Calvert thereafter withdrew his motion and moved to suspend the licence on the basis that the ground for review is established, namely the relevance of preventing crime and disorder. This was then seconded by Councillor Ronnie McColl. There were no contrary motions and the Board unanimously agreed to the motion.

Mr Arrol, on behalf of the Premises Licence Holder, then addressed the Board on the period of suspension. While understanding the Board's concerns on the running of the premises, it was noted that this was the first visit by the Licensing Standards Officer. It is not a correct assumption that Mr Randev is a violent man and his actions were out of character. A suspension of less than 12 months would suffice, three months being better. Mr Arrol also clarified that only Mr Randev and his wife worked behind the counter.

Councillor Calvert moved suspension of the licence for a period of 12 months. He also moved that the Board make a finding in terms of Section 84 of the 2005 Act that the Licence Holder, Mr Randev, while working in the licensed premises in respect of which the premises licence was issued acted in a manner which was inconsistent with the Licensing Objective of preventing crime and disorder. The motion was seconded by Councillor Ronnie McColl.

Councillor George Black noted that Mr Randev had been dealt with by the courts, that the shop supplies a local service and that with the exception of the one incident there was nothing to indicate that he was a violent man nor did he have previous convictions. He moved suspension of the licence for six months. There was no seconder. Subject to noting the dissent of Councillor Black to the period of suspension only, the unanimous decision of the Board was to:-

1. Hold that a ground for review detailed in Section 36(3)(b) of the Licensing (Scotland) Act 2005 was established, namely a ground relevant to the Licensing Objective of preventing crime and disorder.
2. To suspend the Premises Licence for a period of 12 months.
3. To make a finding in terms of Section 84 of the Licensing (Scotland) Act 2005 that the Licence Holder, Mr Randev, while working in the licensed premises in respect of which the premises licence was issued, acted in a manner which was inconsistent with the Licensing Objective of preventing crime and disorder.

The Clerk advised that the Board was obliged in terms of Section 84 to hold a Hearing. His advice was that unless the Personal Licence Holder requested the Board to hold the Hearing today, the Board should hold the Hearing at a future date in order to provide fair notice. Following submissions from Mr Arrol the Board agreed to hold a Hearing at a later date to be advised. The Board adjourned at 12.27 p.m. prior to considering further business.

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The reasons for the Board's decision were as follows. Firstly the Board noted that Mr Randev, the Personal Licence Holder, was one of two persons who worked in the premises, the other being his wife. He had a key role in operating the premises. He had pled guilty to an offence which had occurred when he was working in the premises and involved repeatedly punching, kicking, and striking a female on the head and body. The Board was appalled with what was admitted and did not accept that a person failing to turn up nor taking caffeine was an excuse to attack someone. Nor did the Board accept that being unable to hand over CCTV records was acceptable when the Board's Policy Statement requires CCTV records to discourage crime and disorder. Board members indicated that never in all their years had they encountered a case of someone being assaulted in this way by an assailant working in a licensed premises. They were of the view that a person who could lose their temper to such an extent as to carry out a prolonged attack on a female could only be described as a violent man. The Board was concerned at the level of violence and the degree of loss of control created a risk of further crime and disorder.

In light of the guilty plea to the offence, the level of loss of control and violence involved, and the risk of this reoccurring, the Board determined that the ground of review of preventing crime and disorder had been established. In order to reduce the risk of further crime and disorder the Board determined that it was necessary to suspend the Premises Licence. As Mr Randev was a Personal Licence Holder the Board also determined that it was necessary to make a finding in terms of Section 84 of the 2005 Act. This will be the subject of a subsequent Hearing in due course. The Board was of the opinion that a suspension period of 12 months was appropriate in light of the degree of loss of control and violence exhibited by Mr Randev. A suspension of this time was necessary to satisfy the Board that the risk of further crime and disorder arising from premises in which Mr Randev had a key role, was reduced to an acceptable level where it could be licensed to sell alcohol. This was the unanimous view of the Board with the exception of Councillor George Black who asked that his dissent be recorded to the period of suspension only.

Yours faithfully



Andrew Fraser
Clerk to the Licensing Board

cc: *Anil Kumar Randev*
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